

## **CAREGIVER BACKGROUND CHECK PILOT QUESTIONS AND ANSWERS**

### **A. General Questions about the Federal Pilot**

A1. What states are participating in the CMS Background Check Pilot Program?	<p>CMS selected the following states to participate in the pilot:</p> <ul style="list-style-type: none"><li>• Alaska</li><li>• Idaho</li><li>• Illinois</li><li>• Michigan</li><li>• Nevada</li><li>• New Mexico</li><li>• Wisconsin</li></ul>
A2. How were states selected to participate in the pilot?	<p>Pilot states were selected through a competitive process, along with other states that submitted applications. Selection was based on the technical merits of each application, and also on the criteria outlined in section 307 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), (PL 108-173), to ensure:</p> <ul style="list-style-type: none"><li>• Geographic diversity</li><li>• Inclusion of a variety of long-term care facilities or providers</li><li>• Use of a variety of payment mechanisms for covering the costs of conducting background checks</li><li>• Use of a variety of enforcement penalties (monetary and otherwise)</li></ul>
A3. What states received additional funds for the Abuse Prevention Training Program?	<p>CMS awarded the following states additional funds to develop and deliver an Abuse Prevention Training program:</p> <ul style="list-style-type: none"><li>• Alaska</li><li>• Michigan</li><li>• Wisconsin</li></ul>
A4. What requirements must be met by the pilot states?	<p>Pilot states must comply with the basic statutory requirements set forth in section 307 of the MMA (via state statute, regulation or other mechanism) to:</p> <ul style="list-style-type: none"><li>• Require covered long-term care facilities or providers to conduct a background check (as defined in section 307 of the MMA), on prospective newly hired caregivers.</li><li>• Prohibit a long-term care facility or provider from knowingly employing any person who has a disqualifying criminal history from employment in a position that involves direct access to patients.</li><li>• Protect the applicants against misuse of background check information.</li><li>• Ensure a long-term care facility or provider is not held liable in any action brought by an individual who is denied employment based on information obtained through the background check.</li></ul>

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- Monitor compliance with the requirements of the pilot program.
- Have procedures by which a prospective or provisional employee may appeal or dispute the accuracy of the information obtained in a background check.
- Review the results of any state or national criminal history background checks conducted under the pilot program, immediately report the results to the entity that requested the criminal history background check, and in cases in which a prospective employee is found to have a conviction for a relevant crime subject to reporting under section 1128E of the Social Security Act (42 U.S.C. 1320a-7e), to report the conviction to the database.

A5. How long will the pilot project last?      The CMS Background Check Pilot Program project period is January 2005 through September 2007.

A6. How do we know that background checks are related to incidences of abuse, neglect, and misappropriation.      A 1998 HHS nursing home study in two states found:

- 5-10% of nursing home employees had serious past convictions
- Among abusers, 15-20% had at least one past conviction

For more information, go to Senator Kohl's press release about the pilot:  
<http://kohl.senate.gov/~kohl/press/05/01/2005128522.html>

A7. Why did Wisconsin apply for the Caregiver Background Check Pilot?      Senator Kohl, the Ranking Member of the Special Committee on Aging, fought to fund a criminal background check pilot program for new workers in long-term care facilities as part of the 2003 Medicare reform bill.

The pilot gives Wisconsin a unique opportunity to test our current background check process and compare it to an expanded background check process. In addition, Wisconsin's findings will impact the development of any future federal legislation related to background checks.

A8. How can Wisconsin require providers to complete fingerprint-based background checks?      Wisconsin's existing Caregiver Law gives both the state and the provider the ability to require a fingerprint based background check.

50.065(2)bm: "...The department or entity may require the person to be fingerprinted on 2 fingerprint cards, each bearing a complete set of the person's fingerprints. The department of justice may provide for the submission of the fingerprint cards to the federal bureau of investigation for the purposes of verifying the identity of the person fingerprinted and obtaining records of his or her criminal arrests and convictions."